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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 529,458	04 13 2000	JAY M. SHORT	DIVER1380-1	5257

7590 02 26 2003
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SAN DIEGO, CA 92121

EXAMINER

LOEB, BRONWEN

ARTICLE	PAPER NUMBER
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DATE MAILED: 02 26 2003

28

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09/680,738		Short	

EXAMINER

Bronwen M. Loeb

ART UNIT	PAPER
1636	28

DATE MAILED

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment filed on 5 December 2002 is considered non-compliant because it has not been submitted in the format required under 37 CFR 1.121, as amended on September 8, 2000 (see 65 Fed. Reg. 54603, Sept. 8, 2000 and 1238 P.G. 77, Sept. 19, 2000).

- ☐ The amendment does not include a clean version of the **replacement paragraph/section**. 37 CFR 1.121(b)(1)(ii)
- ☐ The amendment does not include a marked-up version of the **replacement paragraph/section**. 37 CFR 1.121(b)(1)(iii)
- ☐ The amendment does not include a clean version of the **amended claim(s)**. 37 CFR 1.121(c)(1)(i)
- ☒ The amendment does not include a marked-up version of the **amended claim(s)**. 37 CFR 1.121(c)(1)(ii)

Re. claims 23-25, 36, 42, 46, 47

For your convenience, attached to this correspondence is a copy of an informational flyer (MPEP Bookmark Bulletin on "Simplified Amendment Practice").

Applicant is given a **TIME PERIOD** of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to submit an amendment in compliance with 37 CFR 1.121, effective, March 21, 2001, in order to avoid abandonment.

EXTENSIONS OF THIS TIME MAY BE GRANTED UNDER 37 CFR 1.136(a).

EMY KOCEL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Changes to the Patent Rules

October 20, 2000

Volume 1, Issue 3

This is the third in a series of Patent News Bulletins to assist you in keeping up to date with significant rule changes which affect your area. Keep this copy to use as a bookmark for your present MPEP, or view this bulletin again on the USPTO Website.



Simplified Amendment Practice. Replacement paragraphs/sections/claims to be used. 37 CFR 1.121

The rule package "Changes to the Patent Business Goals - Final Rule," published in the Federal Register on September 8, 2000, 65 Fed. Reg. 54603 (Sept. 8, 2000), and the Official Gazette on September 19, 2000, 1238 Off. Gaz. Pat. Office 77 (September 19, 2000). The PBG rule package makes a number of revisions to Title 37.

The entire final rule may be found at the USPTO Website at <http://www.uspto.gov/web/offices/dcom/olia/pbg/index.html>.

Areas and individuals primarily affected by this rule change include:
(1) Patent Examiners and Tech Support Staff in the Technology Centers
(2) Office of Patent Publication

Any questions related to this change in practice should be directed to Joe Narcavage, Special Projects Exr., (703-305-1795) or Liz Dougherty, Legal

Mandatory compliance with the revised rule is not required until March 1, 2001. It is suggested that applicants adopt the revised procedures on or after November 7, 2000, in order to adjust to the changes in amendment practice.

Under the new amendment practice, amendments to the specification must be made by the submission of clean new or replacement paragraph(s), section(s), specification, or claim(s). This practice will provide a specification (including claims) in clean, or substantially clean, form that can be effectively captured and converted by optical character recognition (OCR) scanning during the patent printing process.

The new practice requires applicant to provide, in addition to the clean version of a replacement paragraph/section/claim, a marked-up version using applicant's choice of a conventional marking system to indicate the changes, which will aid the examiner in identifying the changes that have been made. The marked-up version must be based on the previous version and indicate (by markings) how the previous version has been modified to produce the clean version submitted in the current amendment. The term "previous version" means the version of record in the application as originally filed or from a previously entered amendment.

The following format is suggested for amendment paper: (1) clean version of replacement paragraph/section/claim with clean markings for entry; (2) starting on a separate page, any remarks/arguments (37 CFR 1.111); and (3) starting on a separate page, a marked-up

version entitled "Version with markings to show changes made."

Applicants will also be able to submit a clean set of all pending claims, consolidating all previous versions of pending claims from a series of separate amendments into a single clean version in a single amendment paper. This submission of a clean version of all of the pending claims will be construed as directing the cancellation of all previous versions of any pending claims. No marked-up version will be required to accompany the clean version where no changes other than the consolidation are being made.

The amended rule encourages issuance of applications with an examiner's amendment without practitioners/applicants having to file a formal amendment. Additions or deletions of subject matter in the specification, including the claims, may continue to be

made in an examiner's amendment at the time of allowance by instructions to make any change at a precise location in the specification or the claims. An examiner's amendment may incorporate a printed copy of a fax or e-mail amendment submitted by applicant. Only that part of the e-mail or fax directed to a clean version, or a portion of, a paragraph/claim to be added should be printed and attached to the examiner's amendment, with a paper copy of the e-mail or fax.

The clean version of the amendment is not required to be saved once the printed e-mail (and any attachments) becomes part of the application file record.

*Amendment by
paragraph/claim
replacement in clean form.*



MPEP 714+ & 1302.04